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STATUTORY INSTRUMENTS

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**2017 No. 571**

**The Town and Country Planning (Environmental  
Impact Assessment) Regulations 2017**

**PART 12**

Miscellaneous

**Objectivity and bias**

**64.**—(1) Where an authority or the Secretary of State has a duty under these Regulations, they must perform that duty in an objective manner and so as not to find themselves in a situation giving rise to a conflict of interest.

(2) Where an authority, or the Secretary of State, is bringing forward a proposal for development and that authority or the Secretary of State, as appropriate, will also be responsible for determining its own proposal, the relevant authority or the Secretary of State must make appropriate administrative arrangements to ensure that there is a functional separation, when performing any duty under these Regulations, between the persons bringing forward a proposal for development and the persons responsible for determining that proposal.

**Service of notices etc**

**65.** Any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 329 (service of notices) <sup>M1</sup> of the Act.

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**Marginal Citations**

**M1** Section 329 was amended by section 32 of, and paragraph 51 of Schedule 7 to, the 1991 Act; [S.I. 2003/956](#); and section 192 of, and paragraphs 7 and 18 of Schedule 8 to, the Planning Act 2008.

**Application to the High Court**

**66.** For the purposes of Part 12 of the Act (validity), the reference in section 288 <sup>M2</sup> of the Act (Proceedings for questioning the validity of other orders, decisions and directions) to action of the Secretary of State which is not within the powers of the Act shall be taken to extend to a grant of planning permission or subsequent consent by the Secretary of State in contravention of regulation 3 or 36.

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**Marginal Citations**

**M2** Section 288 was amended by section 91 of, and paragraphs 1 and 4 of Schedule 16 to, the [Criminal Justice and Courts Act 2015 \(c. 2\)](#).

### Hazardous waste and material change of use

67. A change in the use of land or buildings to a use for a purpose mentioned in paragraph 9 of Schedule 1 involves a material change in the use of that land or those buildings for the purposes of section 55(1) of the Act (meaning of “development” and “new development”)<sup>M3</sup>.

#### Marginal Citations

**M3** Section 55 was amended by sections 13, 14, 31 and 84 of, paragraph 9 of Schedule 6 to, and Parts I and II of Schedule 19 to, the 1991 Act; [S.I. 1999/293](#); sections 49, 118 and 120 of, paragraphs 1 and 2 of Schedules 6 to, and Schedule 9 to, the Planning and Compulsory Purchase Act 2004.

### Extension of the period for an authority's decision on a planning application

68.—(1) In determining for the purposes of section 78<sup>M4</sup> of the Act (right to appeal against planning decisions and failure to take such decisions) the time which has elapsed without the relevant planning authority giving notice to the applicant of their decision in a case where—

- (a) the authority has notified an applicant in accordance with regulation 11(1) that the submission of an environmental statement is required; and
- (b) the Secretary of State has given a screening direction in relation to the development in question,

no account shall be taken of any period before the issuing of the direction.

(2) Subject to paragraph (3), where it falls to an authority to determine an EIA application, articles 27 (applications made under planning condition) and 34 (time periods for decision) of the Order shall have effect as if for each of the references in article 27(2) and 34(2)(a) and (b) to a period of 8 and 13 weeks respectively there were substituted a reference to a period of 16 weeks.

(3) Where it falls to an authority to determine an application for technical details consent<sup>M5</sup> for EIA development, article 34 (time periods for decisions) of the Order shall have effect as if for each reference in article 34(2) to a period of 5 or 10 weeks respectively there were substituted a reference to a period of 16 weeks.

#### Marginal Citations

- M4** Section 78 has been amended by section 17 of the Planning and Compensation Act 1991; section 43 of the Planning and Compulsory Purchase Act 2004; sections 196 and 197 of, paragraphs 1 and 3 of Schedule 10 to, and paragraphs 1 and 2 of Schedule 11 to, the Planning Act 2008; sections 121 and 123 of, and paragraphs 1 and 11 of Schedule 12 to, the Localism Act 2011; section 1 of, and paragraphs 1 and 8 of Schedule 1 to, the Growth and Infrastructure Act 2013; article 3 of, and paragraphs 1 and 3 of Schedule 1 to, [S.I. 2014/2773](#); section 30 of, and paragraphs 2 and 12 of Part 2 of Schedule 4 to, the Infrastructure Act 2015; and section 150 of, and paragraphs 1 and 21 of Schedule 12 to, the Housing and Planning Act 2016.
- M5** An application for technical details consent is a form of application for planning permission, see section 70(2ZZB) of the 1990 Act, which was inserted by section 150(3) of the [Housing and Planning Act 2016 \(c. 22\)](#).

### Extension of the power to provide in a development order for the giving of directions as respects the manner in which planning applications are dealt with

69. The provisions enabling the Secretary of State to give directions which may be included in a development order by virtue of section 60 (permission granted by development order)<sup>M6</sup> of the

Act shall include provisions enabling the Secretary of State to direct that development which is both of a description mentioned in column 1 of the table in Schedule 2, and of a class described in the direction, is EIA development for the purposes of these Regulations.

**Marginal Citations**

**M6** Section 60 was amended by section 4 of the Growth and Infrastructure Act 2013, and by section 152 of the Housing and Planning Act 2016.

**Application to the Crown**

**70.**—(1) These Regulations shall apply to the Crown with the following modifications.

(2) In regulation 13 (application referred to the Secretary of State without an environmental statement)—

- (a) in paragraph (1)—
  - (i) before “referred” insert “ made or ”; and
  - (ii) before “referral” insert “ making or the ”; and
- (b) in paragraph (3), for “application referred” substitute “ application made or referred ”.

**Review**

**71.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 16th May 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 <sup>M7</sup> requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Directive are implemented in other Member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves a less onerous regulatory provision.

(6) In this regulation “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

**Marginal Citations**

**M7** [2015 c.26](#). Section 30(3) was amended by section 19 of the [Enterprise Act 2016 \(c.12\)](#).

## **Amendment of the Town and Country Planning (Development Management Procedure) (England) Order 2015**

- 72.**—(1) The Order<sup>M8</sup> is amended in accordance with paragraphs (2) to (9).
- (2) In article 2—
- (a) for the definition of “the 2011 Regulations” substitute—
- “the 2017 Regulations” means the Town and Country Planning (Environmental Impact Assessment) Regulations 2017;”; and
- (b) in the definition of “EIA application”, for “2011” substitute “ 2017 ”.
- (3) In article 15—
- (a) after paragraph (1) insert—
- “(1A) In the case of any EIA application accompanied by an environmental statement, the application must be publicised in accordance with the requirements of paragraph (7) and by giving requisite notice—
- (a) by site display in at least one place on or near the land to which the application relates for not less than 30 days; and
- (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.”;
- (b) omit paragraph (2)(a);
- (c) in paragraph (4), for “not a paragraph (2) application” substitute “ neither an application to which paragraph (1A) applies nor a paragraph (2) application ”;
- (d) in paragraph (5), for “neither paragraph (2) nor paragraph (4)” substitute “ , paragraph (1A), (2) or (4) ”;
- (e) in paragraph (6), after “or (5)(a)” insert “ , or before the period of 30 days referred to in paragraph (3A)(a), ”; and
- (f) in paragraph (7)—
- (i) after sub-paragraph (b), insert—
- “(ba) in the case of EIA application accompanied by an environmental statement, that statement;” and
- (ii) in sub-paragraph (c), after “14 days” insert “ , or in the case of an EIA application accompanied by an environmental statement 30 days, ”.
- (4) In article 31(2), for “2011” substitute “ 2017 ”.
- (5) In article 33(1)—
- (a) in sub-paragraph (a), after “21 days” insert “ , or in the case of an EIA application accompanied by an environmental statement 30 days, ”; and
- (b) in sub-paragraph (c), after “14 days” insert “ , or in the case of an EIA application accompanied by an environmental statement 30 days, ”.
- (6) In article 34(9)—
- (a) in sub-paragraph (a), after “21 days” insert “ , or in the case of an EIA application accompanied by an environmental statement 30 days, ”; and
- (b) in sub-paragraph (c), after “14 days” insert “ , or in the case of an EIA application accompanied by an environmental statement 30 days, ”.
- (7) Omit article 35(4).
- (8) In article 38(12) for “2011” substitute “ 2017 ”.

(9) In the second notice set out in Schedule 3, in the bottom box beginning with the word “Insert”, in paragraph (f)—

- (a) for “21” substitute “ 30 ”; and
- (b) omit “a period of 14 days, beginning with the date”.

**Marginal Citations**

**M8** [S.I. 2015/595](#).

**Amendment of the Town and Country Planning (General Permitted Development) (England) Order 2015**

**73.**—(1) Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 <sup>M9</sup> is amended in accordance with paragraph (2).

(2) In paragraph (10)—

- (a) for “the Town and Country Planning (Environmental Impact Assessment) Regulations 2011” substitute “ the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ”; and
- (b) in sub-paragraphs (a) and (b) after each reference to “EIA development” insert “ within the meaning of those Regulations ”.

(3) In paragraph (11) after “EIA development” in each place where it occurs in sub-paragraphs (a) and (b) insert “ within the meaning of those Regulations ”.

(4) In paragraphs (10) and (11)—

- (a) for “regulation 5” substitute “ regulation 6 ”;
- (b) for “regulation 4(7) or 6(4)” substitute “ regulation 5(3) ”; and
- (c) for “regulation 4(4)” substitute “ regulation 63(1)(a) ”.

**Marginal Citations**

**M9** [S.I. 2015/596](#) amended by [S.I. 2016/332](#) and [2016/1040](#).

**Amendment of the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013**

**74.**—(1) The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 <sup>M10</sup> is amended in accordance with paragraphs (2) to (7).

(2) In article 2, for the definition of “EIA development” substitute—

(3) “ “EIA application”, “EIA development”, “environmental information” and “environmental statement” have the meanings given in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017;”;

(4) In article 13(4)(c), after “14 days” insert “ , or in the case of an EIA application accompanied by an environmental statement 30 days, ”.

(5) In article 14—

- (a) in paragraph (2)(a) after “21 days” insert “ , or in the case of an EIA application accompanied by an environmental statement 30 days ”;

- (b) in paragraph (3)(a)(i) after “21 days” insert “, or in the case of an EIA application accompanied by an environmental statement 30 days”; and
  - (c) in paragraph (2), for “21 day period” substitute “ 21 or 30 day period, as appropriate, and as ”.
- (6) In article 23—
- (a) in paragraph (4), for “The Secretary of State” substitute “ Subject to paragraph (4A), the Secretary of State ”; and
  - (b) after paragraph (4), insert—
    - “(4A) In the case of an EIA application accompanied by an environmental statement, the Secretary of State must not determine a relevant application, where any notice of, or information about, the application has been—
    - (a) published on a website under article 13(1), within the period of 30 days beginning with the date on which the information was published;
    - (b) published in a newspaper under article 13(2), within the period of 30 days beginning with the date on which the notice was published; or
    - (c) given by site display under article 14, within the period of 30 days beginning with the date when the notice was first displayed by site display.”
- (7) Omit article 24(2).
- (8) In the notice set out in Schedule 2, in the bottom box beginning with the word “Insert”, in paragraph (e) after “21 days,” insert “ or in the case of an EIA application accompanied by an environmental statement 30 days, ”.

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**Marginal Citations**

**M10** [S.I. 2013/2140](#). Articles 13 and 14 were substituted by [S.I. 2016/944](#).

**Amendment of the Neighbourhood Planning (General) Regulations 2012**

**75.—**(1) The Neighbourhood Planning (General) Regulations 2012 <sup>M11</sup> are amended in accordance with paragraphs (2) to (4).

- (2) In regulation 3, in the definition of “EIA Regulations”, for “2011” substitute “ 2017 ”.
- (3) For regulation 23(2) substitute—
  - “(2) As soon as possible after receiving an order proposal to which regulation 33 of the EIA Regulations applies, the local planning authority must, in addition to any publicity required under paragraph (1), publicise the information described in paragraph (1)(a) and the environmental statement submitted in accordance with the EIA Regulations by giving notice—
  - (a) by site display in at least one place on or near the land to which the order proposal relates for not less than 30 days;
  - (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the order proposal relates is situated; and
  - (c) by publication on a website maintained by or on behalf of the authority.”
- (4) In regulation 24(c), for “regulation 29A” substitute “ regulation 33 ”.

**Marginal Citations**

**M11** [S.I. 2012/637](#) which was amended by [S.I. 2015/20](#) and [2016/873](#).

**Revocation and transitional provisions**

**76.**—(1) Subject to paragraphs (2) to (4), the 2011 Regulations are revoked.

(2) Notwithstanding the revocation in paragraph (1), the 2011 Regulations continue to apply where before the commencement of these Regulations—

- (a) an applicant, appellant or qualifying body, as the case may be, has submitted an environmental statement or requested a scoping opinion; or
- (b) in respect of local development orders, the local planning authority has in connection with that order prepared an environmental statement or a scoping opinion or requested a scoping direction.

(3) Notwithstanding the revocation in paragraph (1), Parts 1 and 2 of the 2011 Regulations continue to apply to—

- (a) requests for a screening opinion or direction;
- (b) screening opinions adopted by the relevant planning authority; and
- (c) screening directions made by the Secretary of State;

where, before the coming into force of these Regulations, such requests were made or the relevant planning authority or the Secretary of State, as the case may be, initiated the making or adoption of such screening opinions or screening directions.

(4) In this regulation—

“the 2011 Regulations” means the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 <sup>M12</sup>; and

“environmental statement”, “scoping direction”, “scoping opinion”, “screening direction and “screening opinion” have the meanings given by regulation 2 of the 2011 Regulations.

**Marginal Citations**

**M12** [S.I. 2011/1824](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, PART 12.